

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-09-004

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF DENVER
HEALTH MEDICAL PLAN, INC.,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Denver Health Medical Plan, Inc. (the "Respondent"), pursuant to §§ 10-1-201 to 207, and 10-16-416, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated May 14, 2008 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a health maintenance organization.
2. In accordance with §§ 10-1-201 to 207, and 10-16-416, C.R.S., on May 14, 2008, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2006 to December 31, 2006.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

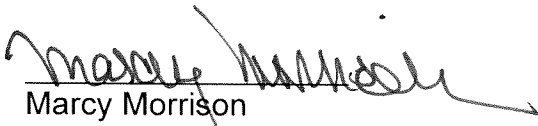
8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue J1 concerns the following violation: Failure, in some instances, to pay, deny, or settle claims within the time frames required by Colorado insurance law. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that all claims are paid, denied, or settled within the time frames required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue J2 concerns the following violation: Failure, in some instances, to timely and correctly pay interest and/or penalties on claims not processed within the time frames required by Colorado insurance law. The Respondent shall provide evidence to the division that it has revised its procedures to ensure that interest is paid when due on all claims that are not paid, denied, or settle within the required time frames, and that except where fraud is involved, a 10% penalty is paid on all claims not paid, denied, or settled within ninety (90) calendar days after receipt as required by Colorado insurance law. Respondent shall provide confirmation to the Division that no waiver of statutorily-required interest or penalty payments exists in any provider contract. If any contract contains such a waiver, Respondent shall amend the contract within thirty (30) calendar days and provide notice to the Division that this has been completed. Respondent shall perform a self-audit of all claims received from January 1, 2006 to the date of this Order that were not paid or settled within the required time periods, and pay any interest and/or penalties due that were not previously

paid to the person owed, including any statutorily-required interest or penalty payments that may have been inappropriately waived. Respondent shall submit a summary of the findings of the self-audit to the Division within ninety (90) calendar days of the date of this Order.

11. Issue J3 concerns the following violation: Failure, in some instances, to allow the required time period for submission of required information prior to denial of the claim. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that any additional information required to resolve a claim is requested within thirty (30) calendar days after receipt of the claim, and the person from whom the information is requested is given thirty (30) calendar days to provide the information as required by Colorado insurance law. Respondent shall provide documentation that necessary enhancements to its claims processing system have been completed to allow for pending of unclear claims within sixty (60) calendar days.
12. Issue K1 concerns the following violation: Failure, in some instances, to provide written notification of first level review determinations. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that written notification is provided for all utilization review adverse determinations as required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue K2 concerns the following violation: Failure, in some instances, to include all required information in first level review adverse determination notification letters. The Respondent shall provide evidence to the Division that it has revised its procedures to ensure that written notifications of first level review decisions contain all information required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
14. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of one Hundred twenty-nine thousand and no/100 dollars (\$129,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007.
15. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.

16. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies'. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
17. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
18. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated May 14, 2008, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 29th day of July, 2008.


Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 29th day of July, 2008, I caused to be deposited the **FINAL AGENCY ORDER NO. O-09-004 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF DENVER HEALTH MEDICAL PLAN, INC,** in the United States Mail via certified mailing with postage affixed and addressed to:

Denver Health Medical Plan, Inc.
777 Bannock Street, MC 6000
Denver, CO 80204-4507

Eleanor Patterson
Market Regulation Section
Division of Insurance